

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

YOGESH SHAH,

Petitioner,

v.

**§ 2255 Case No. 03-C-1266
Criminal Case No. 99-CR-211**

**UNITED STATES OF AMERICA,
Respondent.**

ORDER

Petitioner Yogesh Shah has filed a motion requesting that I order MRI testing to determine whether he is telling the truth about his criminal convictions. Because I lack jurisdiction to order such testing, the motion must be dismissed.

I found petitioner guilty of bank and wire fraud, and inducing a person to travel in interstate commerce in execution of a scheme to defraud, and sentenced him to 144 months in prison. Petitioner filed a motion under 28 U.S.C. § 2255, raising various challenges to his convictions, including a claim that his lawyer improperly dismissed his direct appeal. I granted petitioner's motion on the issue of ineffective assistance of appellate counsel and afforded him a new direct appeal, which is currently pending. I dismissed his other § 2255 claims without prejudice. A new judgment was entered in the criminal case on February 5, 2007, and a notice of appeal filed on petitioner's behalf the next day. Judgment was also entered in the § 2255 case on February 5, 2007.

Generally, the filing of a notice of appeal divests the district court of jurisdiction. See, e.g., United States v. Johnson, 427 F.3d 1053, 1058 (7th Cir. 2005). Petitioner's criminal and

§ 2255 cases are no longer pending in this court. Petitioner provides no jurisdictional basis for me to order post-conviction MRI testing. Accordingly, I must dismiss the motion for lack of jurisdiction.

THEREFORE, IT IS ORDERED that petitioner's motion for MRI testing (R. 125) is **DISMISSED**.

Dated at Milwaukee, Wisconsin, this 12th day of September, 2007.

/s Lynn Adelman

LYNN ADELMAN
District Judge